

Applicant: Gregory Ehlers  
Serial No.: 10/674,621  
Group Art Unit: 2636

IN THE DRAWINGS:

Applicant is submitting herewith the attached two replacement sheets of replacement drawings (Figures 1, 2, and 3) for the subject application. Figure 2 has been amended to include reference numeral 54 for the recover beacon.

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### **REMARKS**

No new matter is added by this amendment. The present application was filed on September 30, 2003 with original claims 1-37. In a previous amendment, claim 1 was amended, claim 2 was cancelled and new independent claim 38 was added. The claims remaining in consideration are claims 1 and 3-38. Claims 1 and 38 are independent claims. Reconsideration is respectfully requested.

The drawings were objected as failing to show every feature of the claims. Figure 2 and paragraph [0040] of the specification has been amended to include reference numeral 54 for the recover beacon. Therefore, applicants request that the objection to the drawings be withdrawn. A replacement sheet with amended Figure 2 is enclosed.

Claims 1, 3-6, 6-16, 19, 20, 30, 31, 37, and 38 were rejected under 35 USC §102(b) as being anticipated by US Patent 5,913,827 issued June 22, 1999 to Peter Gregory Gorman. This rejection is respectfully traversed.

The '827 patent discloses a personal monitor and method for monitoring a biomedical condition, in other words, a heart monitor which utilizes wireless data transmission. The '827 patent is aimed at reducing the interference using encoding techniques over the wireless data link.

The '827 patent has two disclosed embodiments. In the first embodiment, shown generally in Figures 1-6, a heart monitor includes a chest transmitter unit 12 and a wrist display unit 14. The chest transmitter 12 digitizes an ECG signal (see Figure 2) and transmits the signal to the wrist unit 14. The chest transmitter 12 receives a frequency change signal at receiver 40 which is evaluated at signal evaluator 42. Operation of the receiver 40 and signal evaluator 42 are discussed on column 11, lines 17-50. However, it should be noted that the frequency change signal and the receiver 40 and signal evaluator 42 do not act on the heart rate data, but rather, at the accuracy of the wireless data transmission.

Thus, the chest transmitter 12 simply senses the ECG signal, encodes or digitizes the signal and transmits the pulse signal over the wireless data link to the wrist unit 14.

The wrist unit 14 receives the encoded signal, stores the heartbeat data in a memory unit 50, and displays to the user his or her heartbeat (column 12, line 5-14). A comparator or signal evaluator 48 is used to separate the encoded signal into its

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identification part and its data part. The identification part is user to ensure that the received signal is from the correct wrist unit 14. The data part is evaluated to make sure the signal was received error free.

In the second disclosed embodiment, the wrist unit 14 is incorporated directly into exercise equipment (see Figures 7 and 8 and accompanying text). In the second disclosed embodiment, sensed data, which can be the heart rate, e.g., pulse or temperature, are again sensed using the chest transmitter 12 and relayed to the unit 14, which is now incorporated into the exercise equipment. The unit 14 includes a microprocessor 72 which evaluates the data and may adjust the intensity of the workout as a function thereof.

Previously amended independent claim 1 sets forth a system having a controller, a control point and a remote node. The controller is responsive to an operator for controlling operation of one of a machine or process. The control point is coupled to the controller and is located with respect to the one of a machine and process. The remote node is located with respect to the operator of the one of a machine and process for detecting a predetermined condition of the operator and automatically delivering a fault signal to the control point through a wireless communications channel in response to detecting the predetermined condition. The controller controls operation of the machine or process in response to the presence or absence of the fault signal.

Thus, the remote node, which is located with respect to the operator, i.e., in close proximity thereto, determines whether a predetermined condition of the operator is present. For example, the predetermined condition could be the location of the operator with respect to the controller or control point. In other words, operation of the controller is dependent upon the operator being within a predetermined distance thereof.

In another example, the remote node senses one or more characteristics of the operator, determines whether the predetermined condition exists as a function thereof. For example, whether or not the operator is conscious.

If the predetermined condition exists, i.e., the operator is out of bounds or unconscious, then the remote node detects or determines the presence of the predetermined condition and transmits a fault signal. The controller controls operation of the one of the machine or process as a function of the presence or absence of the fault

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signal. For example, the controller may be adapted to prevent start-up or to shut-down, if the operator is not within a predetermined distance.

In either embodiment of the '827 patent, the chest transmitter 12 simply relays the encoded data to the unit 14. The chest transmitter 12 does not detect the presence or absence of a predetermined condition nor does the chest transmitter 12 transmit a fault signal when the predetermined condition exists.

Since the '827 lacks one or more elements of independent claim 1, the §102(b) rejection is improper. Therefore, applicants respectfully requests that the rejection of independent claim 1 be withdrawn.

Claims 3-6, 6-16, 19, 20, 30, 31, and 37 are ultimately dependent upon allowable claim 1. Therefore, for the reasons set forth above, and based on their own merits, applicants respectfully assert that claims 3-6, 6-16, 19, 20, 30, 31, and 37 are also allowable.

Previously presented claim 38 sets forth a system for controlling operation of one of a machine and process. The system includes a control point and a remote node. The control point is located with respect to the one of a machine and process. The remote node is located with respect to an operator of the one of a machine and process for detecting a predetermined condition of the operator and responsively delivering a fault signal to the control point through a wireless communications channel. The predetermined condition is one of a health of the operator, consciousness of the operation, or attentiveness of the operator.

Again, the chest transmitter 12 of the '827 patent does not detect a predetermined condition and deliver a fault signal to a control point through a wireless communications channel of the predetermined condition exists.

Thus, application respectfully assert that the §102(b) rejection of independent claim 38 is improper and must be withdrawn.

Claim 7 was rejected under 35 USC §103(a) as being unpatentable over the '827 patent in view of US Patent 6,529,131 issued March 4, 2003 to Robert Wentworth. This rejection is respectfully traversed.

Claim 7 is ultimately dependent upon allowable claim 1. The '131 patent discloses an electronic tether. The Examiner utilizes the '131 patent to teach that a predetermined

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distance between a master unit and a slave unit is programmable. However, the '131 patent does not overcome the failures of the '827 patent with respect to the limitations of independent claim 1. Thus, applicant respectfully asserts that the §103(a) rejection of claim 7 is improper and must be withdrawn.

Claims 17, 18, and 21-29 were rejected under 35 USC §103(a) as being unpatentable over the '827 patent in view of US Patent 6,736,759 issued May 18, 2004 to Jack Stubbs et al.

Claims 17, 18, and 21-29 are ultimately dependent upon allowable claim 1. The '759 patent discloses an exercise monitoring system which includes a display unit which may be worn on the wrist of a person exercising and a data acquisition component 20 which also is worn by the person. The display unit 7 may be connected to a computer 8.

However, the '759 patent does not overcome the shortcomings of the '827 patent. Therefore, applicant respectfully asserts that, based on the arguments above, and their own merits, that claims 17, 18, and 21-29 are allowable over the cited prior art.

All of the Examiner's objections and rejections having been successfully traversed and/or made moot, applicant respectfully asserts that the present application is now in condition for allowance. An early Notice of Allowance is solicited.

If the Examiner believes that a telephone interview would be helpful, please contact the undersigned at the number below.


Applicant believes that no fees are due, however, if any become required, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account 08-2789. Further and favorable reconsideration of the outstanding Office Action is hereby requested.

Respectfully submitted

**HOWARD & HOWARD ATTORNEYS, P.C.**

September 28, 2005


Date

  
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**CERTIFICATE OF FACSIMILE**

I hereby certify that this Amendment After Final and Replacement Drawings for United States Patent Application Serial Number 10/674,621 filed September 30, 2003 is being transmitted by facsimile to the United States Patent & Trademark Office to fax number (571) 273-8300 on September 28, 2005.

  
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Susan K. Olson